



# Real Property

Class 14



# Eminent Domain and Just Compensation

- **Eminent Domain:** the inherent power of a sovereign government to take appropriate land for government use
- Qualification on eminent domain comes from the Fifth Amendment:
  - "...nor shall private property be taken for public use, without just compensation."
- **Interpretation of this clause:**
  - Any taking must be for public use to be valid
  - The owner of taken property must be compensated with "just compensation"



# Eminent Domain and Just Compensation (cont.)

- What is a **"taking"**?
  - Physical taking of property, no matter how small an area
  - Regulation depriving the owner of ALL economically viable use of the property
- What is a **"public purpose"**?
  - Very broadly interpreted; Anything rationally related to a legitimate government purpose
- What is **"just compensation"**?
  - Fair Market Value; whatever the owner could sell that property for on the open market (NOT what it is worth to the owner)



# Zoning Laws

- Done by local authorities with the permission of the state governments
- Purpose is to keep apart lands whose uses are harmful to each other
- Typical zoning structure:
  - "Zones"
    1. low density residential,
    2. high density residential,
    3. low density commercial,
    4. high density commercial,
    5. low density industrial and
    6. high density industrial
  - Others may include: farm, landfill, ports, etc.



# Zoning Laws (cont.)

- **Cumulative zoning:** Any use can be made can be made of property as long as it is zoned for that use or a "lower" use.
- **Mutually Exclusive Zoning:** A use can only be made can be made of property if it is zoned for that use
  - A zoning law that prohibits an existing usage can be a "taking."
  - "Forced phase outs" are generally not considered to be "takings"
- **Variances**



# QUIZ TIME!

